THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

&

THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

WP No.26239 OF 2007

31-12-2007

Between:

Khaha Bee & Others

…… Petitioners

AND

Khaja Bee & Others

…… Respondents

THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

&

THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

WP No.26239 OF 2007

ORDER:: (per Hon'ble Sri Justice B. Seshasayana Reddy)

This writ petition has been filed by the respondents 6, 8 to 10 in LGC No.17 of 1997 assailing the order dated 7-11-2007 passed in IA No.558 of 2007 & IA No.559 of 2007 in LGC No.17 of 1997 whereby and whereunder, the learned Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982, clarified the stage at which the petitioners herein are permitted to participate in proceedings.

2. Heard Sri Dr.Muddu Vijai, the learned counsel for the petitioners and Sri Syed Shareef Ahmed, learned counsel for respondent no.1 who has filed caveat.

3. Learned counsel for the petitioners submits that the petitioners are entitled to participate in the proceedings placing on record additional pleadings once the matter is remanded to Special Court for disposal afresh. On the other hand, learned counsel for the respondent no.1 contended that the right of petitioners to file counter affidavit stood forfeited by 24-2-1998 and unless the said order is set aside, the petitioners cannot be permitted to put up additional pleadings.

4. We have gone through the order dated 6-11-2006 passed by this

Court in WP No.25379 of 2004 allowing the writ petition setting aside judgment dated 31-10-2003 passed in LGC No.17 of 1997 and remitting the matter to the Special Court for fresh consideration.

5. Subsequently, WPMP No.25098 of 2007 has been filed seeking clarification of the order dated 6-11-2006 passed by this Court in WP No.25379 of 2004. The said WPMP came to be dismissed by this Court by order dated 14-9-2007 with the observation which reads as under:

> *"As things stand, there is nothing which need be clarified. The order passed earlier speaks for itself. If any continuously (sic contingency) arises subsequent to the passing of the order of this Court, it is for the Special Court to adjudicate and decide."*

6. Taking clue from the above referred order, clarification has been sought from the Special Court by moving the applications being IA Nos.558 & 559 of 2007. The Special Court after considering the material brought on record permitted the petitioners to participate in the proceedings from the stage they put in their appearance i.e. from 12-7-2007. The relevant portion of the said order is as under:

> *"xiv) Under the above facts and circumstances and the law as laid down by the Honourable Supreme Court, R-6, 8 to 10, who were set ex-parte twice by this Court on 17-9-1998 for their failure to file counters in the above LGC are permitted to participate in subsequent proceedings from the stage at which they put in their appearance i.e. from 12-7-2007 and they cannot be permitted to file their counters in the main LGC and recall witnesses examined earlier and for cross-examination of those witnesses. The above mentioned operative portion of this order is the clarification issued and passed by this Court."*

7. The above said order passed in IA Nos.558 & 559 of 2007 is challenged in this writ petition.

8. We have gone through the certified copy of the proceeding sheet

in LGC No.17 of 1997 made available to us. The right of the petitioners-respondents 6, 8 to 10 to file counters came to be forfeited on 24-2-1998. The relevant portion of the order passed on 24-2-1998 is as under:

> *"LGC No.17 of 1997: Sri M. Papareddy, counsel appearing for R-3 & 4 is absent. No counter is filed. Sri MA Mujeeb, counsel appearing for R-6, 8 to 10 is also absent. No counter is filed by him. There is no representation on behalf of both the counsel. The right to file counters for R-3, 4, 6, 8 to 10 is forfeited. Posted to 3-3-1998 for issues. Meanwhile objections, if any by GP under Rule 8. Counsel for R-1 & 2 is present."*

9. It is explicit that the right of the petitioners who are respondents 6, 8 to 10 came to be forfeited as on 24-2-1998. Unless the said order dated 24-2-1998 is set aside, the question of petitioners herein who are respondents 6, 8 to 10 in LGC No.17 of 1997 to put on record additional pleadings does not arise. Therefore, we do no see any substance in the writ petition and it is accordingly dismissed. No order as to costs.

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Ghulam Mohammed, J

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B. Seshasayana Reddy, J

Dated : 31-12-2007
Nrg.